

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
OXFORD DIVISION**

WENDELL TODD

PLAINTIFF

V.

NO. 3:14CV00070-JMV

COMMISSIONER OF SOCIAL SECURITY

DEFENDANT

FINAL JUDGMENT

This cause is before the court on Plaintiff's complaint for judicial review of an unfavorable final decision of the Commissioner of the Social Security Administration denying claims for a period of disability and Disability Insurance Benefits and Supplemental Security Income. The parties have consented to entry of final judgment by the United States Magistrate Judge under the provisions of 28 U.S.C. § 636(c), with any appeal to the Court of Appeals for the Fifth Circuit. The court, having reviewed the administrative record, the briefs of the parties, and the applicable law and having heard oral argument, finds as follows, to-wit:

Consistent with the court's ruling from the bench during oral argument, the court finds the ALJ's decision is not supported by substantial evidence in the record. No hypothetical on which the vocational expert's testimony was based matches the RFC determination made by the ALJ. Specifically, while the ALJ's second hypothetical required the VE to assume an individual who could perform "light work" with some postural limitations, the ALJ's hearing decision sets a more limited RFC, including a limitation of sitting for no more than two hours. Because the VE did not have the benefit of the two-hour sitting limitation, his testimony that there were jobs available in the national economy that the individual could perform does not constitute substantial evidence to support the ALJ's determination that the claimant is not disabled. On

remand, the ALJ shall obtain supplemental vocational expert testimony on the issue of whether there are a significant number of other jobs in the national economy the claimant can perform, considering a function-by-function expression of the claimant's RFC. The ALJ may conduct any additional proceedings not inconsistent with this order.

IT IS, THEREFORE, ORDERED AND ADJUDGED that this case is **REVERSED** and **REMANDED** for further proceedings.

This, the 31st day of October, 2014.

/s/ Jane M. Virden
U. S. MAGISTRATE JUDGE